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Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

King and judge of the universe, You rule with righteousness and govern with justice. You have been good to us, restoring our strength and directing our footsteps.

Today guide our Senators in their labors. In these difficult days empower them to produce dividends of character and grace. We pray not for tasks fitted to their strength but for strength which fits them for their tasks. In the hard decisions of this day, guide them by Your word and spirit.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER, a Senator from the State of Montana, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 8, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Sen-

ator from the State of Montana, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in executive session to consider the nomination of Richard Cordray to be Director of the Consumer Financial Protection Bureau. At 10:30 a.m., there will be a cloture vote on the Cordray nomination. If cloture is not invoked, the Senate will resume consideration of the motion to proceed to S. 1944, the Middle Class Tax Cut of 2011. As a reminder to all Senators, cloture has been filed on the motion to proceed to S. 1944. Unless an agreement is reached, that will be tomorrow morning.

CORDRAY NOMINATION

Mr. REID. Mr. President, shortly the Senate will vote on the confirmation of Richard Cordray to lead the Consumer Financial Protection Bureau. Again, the Consumer Financial Protection Bureau. I stress "consumer." By now we all know my Republican colleagues will filibuster Mr. Cordray's nomination. They said they will. This is not an

up-or-down vote. In the Republicans' effort to not allow this vote, they are stopping a vote on this very qualified man.

They are not blocking this nomination because of any fault, real or perceived, in this candidate. He has bipartisan support and is eminently qualified. He has a long history of protecting consumers against the unfair practice of financial predators. He currently serves as chief of enforcement at the Bureau.

Before that, Mr. Cordray served as Ohio's attorney general, a very important job in a very heavily populated State. While there, he recovered billions of dollars from pension funds on behalf of retirees, investors, and others. He took action against fraudulent foreclosures and predatory lending. He is qualified, and he is a man of diligence.

The Republicans are blocking his nomination and not allowing a vote because they don't like the Federal agency he would lead, an agency established by law. This is the first time in the Senate's history that a party has blocked a qualified candidate solely because they disagreed with the existence of an agency that has been created by law.

Republicans are doing this to undermine the system of law we have in our country. Democrats fought to pass Wall Street reform last year to protect against the greed of big banks. Well, without a director, the Consumer Financial Protection Bureau doesn't have the tools it needs to get the job done. It is shocking that despite the economic crash in our rearview mirror—it is easy to look back and see what happened because of Wall Street greed—Republicans, in spite of that, would leave consumers without a watchdog to guard against the greed of Wall Street. That is unfortunate.

Would the Chair announce the business of the day.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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EXECUTIVE SESSION

NOMINATION OF RICHARD CORDRAY TO BE DIRECTOR, BUREAU OF CONSUMER FINANCIAL PROTECTION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10:30 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. REID. I ask that a quorum be called and the time be equally divided between the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

Mr. MCCONNELL. This morning the Senate will vote whether the new Consumer Financial Protection Bureau should be able to put a director in place before concerns about its accountability to the American people are addressed. Let me stress that is all today's vote is about. Today's vote is about accountability and transparency. It is a debate about whether we think Americans need more oversight over Washington or less.

Republicans made our position clear more than 7 months ago when 44 of us signed a letter saying we will not support a nominee for this Bureau, no matter who the President is, until three commonsense conditions are met that would bring some transparency and accountability to the CFPB. That letter now has 45 signatories.

The President knew about these concerns months ago and he chose to dismiss them. Now he is suddenly making a push to confirm his nominee because it fits into some picture he wants to paint about who the good guys are and who the bad guys are here in Washington. So, once again, Democrats are using the Senate floor this week to stage a little political theater. They are setting up a vote they know will fail so they can act shocked about it later. This is what passes for leadership at the White House right now.

The President has made his choice about how to deal with this issue, and we have made ours. What we have said

is that until this or any other President addresses these legitimate concerns, we cannot and will not support a nominee. Here is what we said in that letter 7 months ago: First, replace the single Director with a board of directors who would oversee the Bureau. Second, subject the Bureau to the congressional appropriations process. Third, allow other financial regulators to provide a check on CFPB rules so they don't imperil the health of financial institutions and lead to unnecessary bank failures.

Look, everybody supports strong and effective oversight, but that has to include the overseers as well. Unelected bureaucrats must be held accountable to the American people, and that is exactly what our proposal would do. So it is up to the President. Republicans have outlined our concerns and they are well known. We are not going to let the President put another unelected czar in place, unaccountable to the American people. And, frankly, his refusal to work with us only deepens our concerns. The CFPB requires reforms before any nominee can be confirmed. It is time the President takes these concerns seriously.

I look forward to hearing from the President on this issue so we can put in place the kind of oversight and accountability the American people expect in an agency of this size and this scope. Until then, I will vote against this nominee for the CFPB and any others that this or any other President sends until he works to fix the problems, until he brings transparency to this bureaucracy and accountability to the American people.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I rise today in opposition to the motion to invoke cloture on the nomination of Richard Cordray to be the Director of the Bureau of Consumer Financial Protection.

Earlier this year, I and 44 of my colleagues sent a letter to the President expressing our concerns with the unaccountable structure of the Bureau. It is now 7 months later and the President has yet to respond.

The majority has called for a vote they know will fail today. It is evident the White House and the majority have decided to place politics ahead of good policy. They have chosen to fabricate a political issue rather than do what is in the best interests of consumers. Nonetheless, they claim this debate is about consumer protection.

There is no disagreement, however, that consumer protection, as the Act-

ing President pro tempore knows, needs to be enhanced. The only real point of contention is whether the new Bureau of Consumer Financial Protection will be accountable to the American people.

If we believe regulators never fail, then the current structure of the Bureau is just fine. Yet we all know regulators do fail and their failures harm consumers.

Members of the majority, I believe, have repeatedly made this point with their criticism of the Fed's failure to regulate subprime mortgages and the OCC's preemption of State consumer protection laws.

I strongly agree with the majority that our regulators failed to do their jobs in the lead-up to the financial crisis. But the lesson we should learn from the financial crisis is not that we need more unaccountable regulators. Instead, all of our financial regulators need to be held more accountable.

Just as banks should be held accountable for their failures, regulators should also be held accountable for theirs. After all, if regulators know Congress can hold them accountable, they will have a far stronger incentive to do their jobs. That will be good, as we all know, for consumers. That is why, if the Bureau is reformed, the biggest winners will be the American consumers.

Today, however, the majority will show that they are now more concerned with insulating bureaucrats from accountability and rewarding political allies than looking out for consumers. The administration and the majority will try to argue that the Bureau already is accountable. Indeed, they will say it is more accountable than any other financial regulator. But let's look at the facts. The facts tell a different story.

First, it is necessary to appreciate the amount of power placed in the hands of the Director of this Bureau. No bureaucrat will have more power over the daily economic lives of Americans than this Director. The Director, in effect, will decide which Americans can access credit to buy homes, purchase cars, and pay for college. The Director will regulate not only financial companies but also tens of thousands of Main Street businesses. Also, the Director will unilaterally decide how the Bureau spends its up to \$600 million budget.

Despite the vast power vested in the hands of the Director, there are no effective checks on the Director's authority. To truly understand just how unusual the structure of the Bureau is, one need only compare it to other independent agencies.

Unlike the Chairman of the SEC, the CFTC, and the Federal Reserve, the Director of the Bureau does not have to obtain the agreement of other board members or other government officials before acting. Unlike other consumer protection agencies, the Bureau is not subject to the congressional appropriations process. Indeed, other consumer